

L E T T E R

FROM A

RETIRED BARRISTER,

Etc. Etc.



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L E T T E R

FROM A

RETIRED BARRISTER

IN

L O N D O N, - IV [Ath - m^{re}]

TO A

PRACTICING BARRISTER

IN

D U B L I N.

D U B L I N:

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1799.

L E T T E R, &c.

DEAR SIR,

THE honour you have done me in desiring to know my sentiments upon some important occasions, in which the Interests of the Bar in Ireland have been involved during the last fifteen years, encourages me to offer a very few plain Observations to your consideration, respecting an Union between Great-Britain and Ireland, as far as it respects the Interests of the Profession of the Law at large, on your side of St. George's Channel.

Being at some distance from London during the Christmas vacation, I learn merely from Newspapers, that a meeting has been held to consider of this Subject, in which it was almost unanimously agreed, that such an Union would be disadvantageous to our Profession in Ireland. You may recollect that I argued with a degree of warmth, which nothing but your Good-nature could have justified, against taking away the Appeal and Writ of Error from Ireland to England. When you desired my sentiments in writing upon that subject, I then foretold, that the Value of Irish Security, even the best, would be greatly depreciated in the eyes of the English Capitalists; and I remember, after having reasoned on the more important parts of the subject,

that

that I expressed a hope, that no mean and wretched consideration of intercepting a few briefs on their way to England, had any share in guiding the Opinions of such Members of Parliament as were Lawyers; hoping that they were sufficiently acquainted with the real foundation of their own prosperity, namely, *the general advancement of the Country in Commerce and in Agriculture.* I observed to you, that if the continuance of the Appeal and Writ of Error should facilitate the lending of a portion of the increasing British Capital in Ireland, the regulating and protecting hand of the Law would be required in proportion to its productive effects in Ireland, and the assistance of the Ministers of that Law required in the same proportion.

Persons

Persons of great consideration in your Country have informed me, that little English Capital has been lent in Ireland since that period; and, that as to professional profits arising from Appeals and Writs of Error, these have never amounted to so much as went to pay for powdering the Tye-wigs in the Four-courts.

The surprise with which I read the result of your deliberations, in the Newspapers, was the greater, because in every company, which has happened to converse on this subject in my presence, it had been without discussion assumed as a thing which could not possibly be controverted, that the landed Interest, the mercantile profession, *and the Professors of the Law,* must

must be gainers by such an event beyond all power of present calculation. It amazed myself and others when we found, that part of a Proposition which appeared to us so manifestly plain one way, and inseparable from the rest, should appear equally manifest to a large and enlightened body of men the other way. Of two opinions diametrically opposite the one to the other, holden by two sets of men conversant with the subject, one must be perfectly erroneous. I will endeavour to shew that the mistaken reasoning lies with you; and, although no English Barrister is personally interested in the point, I shall be happy, for the sake of truth, to have it shewn, if you shall be of that opinion, and able
so

so to do, that the mistaken reasoning lies with me.

No account has yet been given to the Public (I speak from Newspapers only) of the media through which the Profession in Ireland arrived at their conclusion, of an Union being hostile to their Interests: I must, therefore, endeavour to guess at them, and having considered them shortly, shall proceed through my own media to shew the vast advantage of it to all Branches of the Profession in general.

But first, Sir, I must take a very short view of the constitution of your Bar, as contrasted with that of Westminster-Hall, in order to shew that as far as regards the Bar, the objections
to

to an Union proceed from some vices in that Constitution, of which I must be permitted to speak freely.

Your education for the sober, accurate and laborious profession of an Advocate begins among you, by attendance for a year or two at the Temple. You and I know well, how few of those Students are really intent on their Studies. Pleading and conveyancing, I have very seldom known seriously studied by the Students of your Country. On their return to Ireland, they are, in no long space of time, called to the Bar, and no small portion of them, before their understandings are matured by answering cases, or conducting, or assisting in conducting important causes, before they have laid in any well-digested
store

store of Principles to be ready, as
 current Coin, or have fixed any sets of
 leading cases in their memory, get
 rumbling into desultory argument at the
 Bar, without good Method, or any di-
 rect *quod est demonstrandum*, in view, and
 having talked long and loud, are not
 a little commended by every one who
 knows nothing of the matter. Thus
 eminently successful, our young HOR-
 TENSIVS is *solicited* to accept of a seat
 in Parliament; he does so at the en-
 suing Election, comes into the House
 of Commons in Ireland with the for-
 midable appellation of *Counsellor*, displays
 his unchastised reasoning and ill-digested
 learning, day after day, and becomes
 that mongrel kind of thing which is
 neither Lawyer or Statesman, as one
 often sees two very good things put
 together

together which made one very bad one. Men of this description are certainly *Barristers*, and, as such, entitled to a Voice in every meeting of the Profession at large. They are not, however, what Lord Coke emphatically calls "*sad and discreet Lawyers*;" to men of the former description, a Parliament at hand, which furnishes an Arena for a sort of Prize-fighting, is certainly of considerable value, because, by parliamentary intrigue, they may be prematurely placed in some tolerably-profitable station in the Profession.

You observe that I divide the Bar in Ireland into BARRISTERS, and LAWYERS. Now the mere *Barrister* (as I use the word) is, in my judgment, a member of Society very detri-

mental to its true Interests. He confounds separate objects of study and pursuit, at a period of life when they should be kept separate and distinct, and never after can be perfect in either. His influence, bustle, and tinsel sparkling, enable him to usurp the place of the Lawyer, who is greatly injured by his manœuvres, and parliamentary support.

That such men therefore, Sir, will act as men fighting for their only support and means of advancement, I can easily conceive; and they are fighting *pro aris et focis*. But let me turn a little towards the *Lawyers*. By the *Lawyers* I mean the men, who, though comparatively few, have laboured with diligence, who have toiled through the laborious

laborious department of causes for years; who argue with conciseness and to a point; who silently acquire the esteem of the Bench, and of those who understand the subject; and who, when they have acquired the reputation of men of gravity and weight, come into Parliament to assist on more important occasions. I speak of Tisdals, Malones, Fitz-Gibbons (Father and Son), Yelvertons, Wolfes, &c. &c. Will not the field be cleared for future Lawyers of their description, and the few Prizes which the Profession affords, be far more within their reach, when the expectants on parliamentary assistance are reduced in number, or are no more? and will not the Public be most essentially benefited by that reduction or annihilation?

What

What proportion of those whom I have stiled *Lawyers*, have dissented from an Union at the Meeting I have alluded to, does not appear; but if ever men voted for a self-denying ordinance, they have certainly done so, if they disapproved of an Union on that occasion. Before, however, I place any reliance on the sense of that meeting, so far as it consisted of the Advocates, I must know, what proportion the Barristers bore to the real Lawyers, and what number of the real Lawyers, that is, the just and true Candidates for personal Employment and high Office, so declared themselves. Of the other department in the Profession, namely, that of Solicitors and Attornies, I say nothing particular in this place, as much of my own reasoning
upon

upon the subject will be addressed to them, to which I immediately proceed.

I assume it without any apology as an *Axiom*, that if Ireland were distinguishable from Great-Britain by no other circumstance, than that a traveller must add to his posting, a few hours passage by sea; that kingdom rich in cultivated, and perhaps more so in uncultivated soil, blest also with a mild climate, must increase in Wealth and Population, in a proportion beyond any thing we have heard of, even in America.

The Capital of Great-Britain has increased to a size incredible; when peace shall come, some of those channels which used to absorb much of it, will

not

not be open in the degree they have heretofore been, I mean the West-Indies. Good and sound security will be at hand, without risk of knavish Overseers and Attornies, hurricanes, dry seasons, long and circuitous litigations, &c. &c. Six per cent in Ireland, with ultimate Justice in the united Parliament, will draw to Ireland a very large portion of the *unwieldy* English Capital.

What will be the effect? I venture to say no less than, that in thirty or forty years after peace shall be restored to Ireland, and all distinction between her and Great-Britain done away, the whole face of the Country will be changed. I will give a powerful instance
of

of the sudden and lasting advantage produced in our own time, by the operation even of a meretricious Capital making its appearance for a short time only.

When the famous Ayr Bank degenerated from its original purpose, an immense factitious Capital, in paper-money, inundated Scotland, circulated without difficulty for some years, and performed all the offices of real Cash. The effect was, that during this temporary wealth, the whole face of the country was improved in a most surprising degree. The individual Proprietors lost a great deal in the end, and the Public gained a very great and lasting advantage. English Capital by
no

no means finds its way into Scotland readily, by means of *Loan*, by reason of some difference in the laws respecting landed securities in the two Countries, which will not be the case as between England and Ireland; and yet in seventy years Glasgow has become a City so considerable, that it is doubted whether Glasgow, Liverpool, or Bristol rank next to the port of London in business and wealth. Round the Muf-
lin Manufactory, land lets at five and six pounds an acre. It is familiar to ask, whether you have been in Scotland within these fifteen or twenty years? If you answer no; the reply is, "believe me you would not know it again it is so improved." Let me then, Sir, put this plain question to your common sense: Can the variety of
subject.

subject-matter over which municipal laws operate, increase, without an increase of employment to all those concerned in the administration of those municipal Laws, from the Great-seal down to the Tipstaff? Must not contracts of every description, settlements of every description, and all the transactions of men take place with respect to this new-created property, if I may so call it, as well as with respect to the old?

The vast proportion of the richest land in the world which remains to be drained, inclosed, &c.: The vast communications which remain to be made from lake to lake, and from great river to great river, dazzle and confound me; with the prospect of the vast in-

crease of subject-matter, which must arise from the Law of Property to work upon. You may as well imagine, my good friend, that population can increase without an increase of profit to Shoemakers and Taylors, as that a country can climb from a low to a high state of Agriculture and Commerce without raising the Stocks, (as we say in Westminster-Hall) of the Four-courts, ten fold.

Commerce and Agriculture have been shamefully neglected till within these last fifty years in Great-Britain. Is it not notorious that the King's-Bench Stocks (as they are humorously called) bore no proportion fifty years ago to their present price? I am informed too, and most readily believe it (because, according

cording to my principles, it cannot possibly be otherwise) that the general gains of the Bar at Edinburgh, have, since the Union, gradually kept pace with the vast improvement and great wealth of the Country. This is really too plain a point to argue upon farther. Lawyers thrive in rich pastures, not in sandy deserts, nor in bogs.

But, Sir, I will own to you that although I was greatly surpris'd at reading that the Bar, including the *Lawyers*, had reprobated an Union; yet, that I was ten times more surpris'd, when I read in this very day's Paper, that this seem'd to be the sentiments of ATTORNEYS and SOLICITORS. Now, Sir, the subject-matter of the employment of those Members of the Profession, is

quicquid

quicquid agunt homines. I should think it a most incontrovertible proposition, that if you increase the employment of a *Country* ten fold, you will increase the employment of this necessary body of men perhaps much more than ten fold, I remember somewhere in Doddsley's collection, some lines from a young Lady to her brother, on being called to the Bar, in which she supposes, that, "Purses and Maces float before his eyes." I really should have thought, that on the bare mention of a Junction between England and Ireland on a perfectly equal footing as to Commerce and Agriculture, Canal Bills, Inclosure Bills, vast Drainages, Leases with various provisions to encourage first Tenants, Bonds and Mortgages, Agreements, &c. &c. &c. would have floated before

before the eyes of every Solicitor in Dublin. I should have thought that Policies, Charter-parties, &c. would not have escaped his imagination; and, that as the Sea-port Towns and others, grow in prosperity in Ireland, his *Agency* from the country would have appeared a thing likely to increase rapidly in value.

Thus, Sir, have I thrown out with perfect freedom, not my sentiments only, but those that are current in the society which I live in, *non meus hic sermo*; but merely what I have never heard disputed.

One thing indeed I have omitted. It is said that your Bar is of opinion, that the profession will bear a large share of the loss of profit by *the depopulation*

of

of Dublin, in the event of an Union of the two Parliaments.

The habits of your mind, unless you are greatly altered within a few years, will, I know, lead you to prefer one stout fact, to a thousand arguments *a priori*.

In seventy years Edinburgh has added to its old Town two most beautiful and magnificent additions which may well be called *Cities*, inhabited by a great number of the opulent Nobility and Gentry of the Country. The Courts of Justice, the University, and the several literary Bodies, furnish one of the best and most rational societies in Europe. A Winter's campaign to London is not, in point of expence, within

within the compass of many who live very handsomely during the Winter in Edinburgh; and, at the same time, educate and introduce their Children to good Company. It is not a transient expedition to London, that will incorporate any one into the first societies there; wherefore, few Scotch families undertake them. Why, Sir, should not this be the natural course of things with respect to Dublin? That Capital will have all the attractions that learned and good society can give. Few Sir Francis Wronghead's, not in Parliament, will take this enormous Journey, in order to be in reality in a more contracted society than they would enjoy in Dublin, amidst their old acquaintance, relations, and friends; and that

that too at double the expence. Is it not much more probable that, as Ireland by general improvement acquires a more universal competence than she at present enjoys; the number of persons who will be able to afford a residence in Dublin, will increase very fast? but, that persons of overgrown wealth, who pant for a London Winter, will be comparatively very few in number, and never will be so many as to affect the local prosperity of Dublin? The same causes which have made Edinburgh increase to so great a degree, must operate in Ireland, if it be true that the same causes will ever produce the same effects; and, to that I trust, rather than to any desponding speculations.

Having

Having given you my opinion on this subject, as far as it respects the profession of the Law in Ireland, permit me to add, that Ireland has now an opportunity, which may never again occur, of becoming one of the first countries in the world. How far an Union is or is not *beneficial to England*, I think is much more problematical; and, perhaps I may take an opportunity of shewing, that this measure, however beneficial to Ireland, is not lightly to be acceded to on the part of England, and desire you will not consider me as pledged to any opinion on the general question as far as it relates to *Great-Britain*. Being unwilling that any small point, (such as the interest of any particular profession)

profession) should be so palpably misunderstood, as I think it has been in Ireland, I have put this much upon paper, but whether the expected tranquillity of Ireland and its future wealth and prosperity, may, or may not be dearly purchased by Great-Britain, by reason of the important changes which a junction of Parliaments may occasion, in the frame of her own Constitution, are grave and weighty points, on which I am disposed, till better advised, more than to doubt; and must hear much more, than I have yet done to satisfy me, that a mine may not now be forming, if it be true, that an Union of the two Parliaments is seriously intended, which may spring at a distant day,
and

and totally destroy that delicate balance
on the preservation of which the ex-
istence of our Constitution wholly de-
pends. I am,

DEAR SIR,

Your very faithful, and

Very obedient Servant,

LONDON,
December the 29th,
1798.

THE END.

and really doing business
on the principle of which the ex-
istence of our Constitution wholly de-
pends. I am, Sir, your obedient servant.

Dear Sir,

I have the honor to acknowledge the receipt of your letter of the 28th inst.



I am, Sir, your obedient servant.
London.
28th March 1847.

Yours faithfully,
J. R. Smith

